

November 19, 1992

Writer's Direct Dial: (412) 594-5622

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RECORDED BY  
FILED 1425

Interstate Commerce Commission  
12th and Constitution Avenues NW  
Washington, DC 20423

NOV 20 1992 - 12 32 PM

INTERSTATE COMMERCE COMMISSION

RE: PNC Leasing Corp - Diversified Lease Funding, Inc.

Dear Sir or Madam:

Enclosed please find an original and one (1) certified true and correct copy of the Consent to Assignment by and between PNC Leasing Corp whose address is:

1 Oliver Plaza  
34th Floor  
Pittsburgh, PA 15222

*Secured Party*

Capital Service Group, Inc. whose address is:

3955 East Exposition Avenue  
Suite 212  
Denver, CO 80209

*Lessor*

Diversified Lease Funding, Inc. whose address is:

3955 East Exposition Avenue  
Suite 212  
Denver, CO 80209

*assignee*

and The Carbide/Graphite Group, Inc. whose address is:

One Gateway Center  
19th Floor  
Pittsburgh, PA 15222-1416

*Lessor*

Please file this document in your office at your earliest convenience. The original should be returned to me at the above address.

Thank you for your cooperation in this regard.

Very truly yours,

TUCKER ARENSBERG, P.C.

*Robin K. Capozzi*  
Robin K. Capozzi

RKC/tal  
Enclosure 88577.1:11/19/92:

I hereby certify that this is a true and correct copy of the original Consent to Assignment.

Sworn to and subscribed before  
me this 19th day of November, 1992

RECORDATION 120

FILED 1455

NOV 20 1992 - 12:00 PM

INTERSTATE COMMERCE COMMISSION

**CONSENT TO ASSIGNMENT**

Alice M. Needham  
Notary Public  
MY COMMISSION EXPIRES:

THIS CONSENT TO ASSIGNMENT (the "Consent"), dated as of November 20, 1992 is made between PNC LEASING CORP, a Pennsylvania corporation, as the secured party ("Secured Party"), CAPITAL SERVICES GROUP, INC., a Colorado corporation as the lessor ("Lessor"), DIVERSIFIED LEASE FUNDING, INC., a Colorado corporation as assignee of the Lessor ("DLF") and THE CARBIDE/GRAPHITE GROUP, INC., a Delaware corporation as the lessee ("Lessee").

Notarial Seal  
Alice M. Needham, Notary Public  
Pittsburgh, Allegheny County  
My Commission Expires July 10, 1993  
Member, Pennsylvania Association of Notaries

**W I T N E S S E T H:**

WHEREAS, Lessor and Lessee have entered into a certain Lease Agreement Number 1474 dated as of August 10, 1992, providing for the demise to the Lessee of 36 flat rail cars, numbers DLFx 301 - 316, inclusive, and numbers DLFx 317 - 336, inclusive, (the "Railcars"), which lease includes Rider #1 and Rider #2 and a Stipulated Loss Schedule (said lease together with each and every rider, including Rider #1 and Rider #2 and the Stipulated Loss Schedule and all other future riders, schedules, amendments, supplements or additions thereto collectively the "Lease"); and

WHEREAS, pursuant to this Consent, the Lessor agrees to assign all of its right, title and interest as Lessor under the Lease to DLF; and

WHEREAS, the Secured Party has agreed to loan to DLF up to the principal sum of \$741,096.42 (the "Loan") to enable DLF to pay a portion of the purchase price of the Railcars, which Loan shall be advanced in installments evidenced by promissory notes executed by DLF each dated as of the date of each respective advance ("collectively the "Notes"), and each made by DLF and payable to the Secured Party; and

WHEREAS, to secure the repayment of the Loan made pursuant to the Notes, DLF will assign and grant a first lien security interest to the Secured Party, its successors and assigns, in all of DLF's right, title and interest in and into the Railcars, the Lease and in all rents and other sums due or to become due and payable by the Lessee under the Lease pursuant to a certain Security Agreement dated as of the date hereof between DLF, as the Debtor and the Secured Party (the "Security Agreement"); and

WHEREAS, as a condition to the Loan, the Secured Party has required the Lessor, DLF and Lessee to enter into this Consent by which (i) the Lessor will assign all of its right, title and interest in the Lease to DLF and, (ii) the Lessee will consent to the collateral assignment of the Railcars, the Lease and the rents and other sums due or to become due and payable by the Lessee under the Lease to the Secured Party pursuant to the

Security Agreement, and by which the parties shall agree to make certain amendments and modifications to the Lease;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intent to be legally bound, the parties hereto agree as follows:

1. Recital. The recitals stated above are incorporated into and made a part of this Consent.

2. Consent to Assignment. Pursuant to Section 18(b) of the Lease, the Lessee hereby consents to the assignment to DLF of all of the Lessor's right, title and interest in the Lease and the rents and all other sums due or to become due and payable by the Lessee under the Lease.

3. Consent to Collateral Assignment. The Lessee hereby consents to the execution and delivery of the Notes and the Security Agreement by DLF and to the collateral assignment to the Secured Party of all of DLF's right, title and interest in the Lease, the Railcars and the rents and other sums due or to become due and payable by the Lessee under the Lease.

(a) The Lessee agrees to pay directly to the Secured Party, or to its designee at the location set forth in paragraph 3 hereof (i) all rents and other moneys due and to

become due from the Lessee as set forth in the Lease, (ii) all sums payable by reason of a default and acceleration of the liabilities of the Lessee under the Lease; and (iii) all other sums at anytime owing by the Lessee under the Lease.

(b) The Lessee waives to the fullest extent permitted by law any defense, right to set-off, counterclaim or recovery that Lessee may now or hereafter acquire against DLF by reason of the Lease, the Railcars, or in any other regard, against the Secured Party or against any rents or other sums now or hereafter payable under the Lease.

(c) The Lessee will not modify or consent to any modification of the terms of the Lease without the prior written consent of the Secured Party.

(d) All obligations and warranties (if any) made by DLF under the Lease or any other agreement affecting the Railcars shall remain the sole and exclusive undertaking of DLF notwithstanding the collateral assignment of the Lease to the Secured Party.

(e) Lessee warrants that (i) the Lease is in full force and effect, (ii) that no defaults thereunder have occurred and are continuing, (iii) that Lessee has accepted the Railcars from DLF and that they fully comply in condition to the terms of the Lease, and (iv) that Lessee has not paid or prepaid to DLF

any rents or other sums under the Lease, other than the first rental payment on each Lease Rider payable in advance.

3. Payments. All payments to be made to the Secured Party hereunder or under the Notes and the Security Agreement shall be made to the Secured Party at its office at One Oliver Plaza, 34th Floor, Sixth Avenue and Wood Street, Pittsburgh, Pennsylvania 15265, or at such other place as the Secured Party shall specify in writing.

4. Amendments to the Lease. Each of DLF and the Lessee hereby agree for the benefit of the Secured Party that so long as the Secured Party, or any assigns or successors to the Secured Party, holds an interest in the Lease or the Railcars, that the terms of the Lease shall be amended in the following particulars. In the event of any conflict or ambiguity between any provisions of the Lease and this Consent, the provisions of the Consent shall control.

FIRST: 2 Delivery and Acceptance of Cars. By its execution of this Consent, Lessee acknowledges that it has accepted the Railcars identified in Rider 1 to the Lease for all purposes under the Lease and that the term of the Lease has commenced in respect thereto. Upon the execution and delivery of a Lessee's Statement of Delivery and Acceptance by the Lessee in respect to the Railcars identified in Rider 2 to the Lease, the Lessee shall thereby accept the Railcars for all purposes under

the Lease and the term of the Lease in respect to such Railcars shall commence.

**SECOND:**     2(a) Interim Rental. From the date of acceptance of the Railcars by the Lessee as evidenced by the Lessee's execution and delivery of Lessee's Statement of Delivery and Acceptance, through and including the day next preceding the Base Term Commencement Date, the Lessee shall pay to the Lessor as interim rental payment, payable on the Base Term Commencement Date, an amount equal to the daily equivalent of the monthly rental payment times the days elapsed from the date of acceptance of the Railcars to the date preceding the Base Term Commencement Date. The Base Term Commencement Date for both Rider 1 and Rider 2 to the Lease shall be November 30, 1992. Each payment of interim rent shall be applied first to the repayment of amounts then due under the Notes and the Security Agreement, and any balance shall be paid to the Lessor.

**THIRD:**     Rights of Lessor and Secured Party. Whenever the term "Lessor" is used in the Lease, such term shall mean Diversified Lease Funding, Inc., as assignee of Capital Services Group, Inc., and its successors and assigns. Whenever the term "Assignee" or "assignee" is used in the Lease, such terms shall mean PNC Leasing Corp and its successors and assigns.

**FOURTH:** 6. Payment. Payments due shall be made on or before the first day of each month for which such rental relates and is due.

**FIFTH:** 7. Title. Lessor warrants that on the date of the acceptance of the Railcars by the Lessee, Lessor shall have good and marketable title to the Railcars, free and clear of all liens and encumbrances, excepting only the interests of the Secured Party under the Security Agreement and the interests of the Lessee under the Lease.

**SIXTH:** 9. Substitution of Cars. In the event that Lessor elects to replace any Railcars with Replacement Cars, Lessor may do so only upon 30 days prior written notice to the Secured Party, and upon the condition that the Replacement Cars have a value and utility equal to or greater than the Withdraw Cars or Casualty Cars; that the Replacement Cars become subject to the terms of the Lease for all purposes, and that the Secured Party shall have a perfected first lien security interest in the Replacement Cars on or before the time that the Replacement Cars are delivered to the Lessee.

**SEVENTH:** 11. Taxes and Insurance. The Lessee shall at all times maintain in effect all risk comprehensive property insurance on the Railcars in amounts equal to the greater of their original invoice price or replacement value, carried through insurance carriers having a Best Rating of not less than



A-. All such policies shall insure the interest of the Secured Party as a lender loss payee, and shall not be cancelled by the insurer or the insured, except upon 30 days prior written notice to the Secured Party. In the event that the Lessee fails to maintain insurance as herein specified, Secured Party may, at its option, provide such insurance and, in such event, Lessee shall upon demand, reimburse Secured Party for the cost thereof.

**EIGHTH:** 13. Indemnity. For purposes of Section 13, Indemnity, the indemnification of the Lessor by the Lessee shall include the Lessor and the Secured Party.

**NINTH:** 15. Loss, etc. Notwithstanding Section 15, Loss, etc., whenever Lessee is required to pay an amount equal to the Stipulated Loss Value due to the loss or destruction of a Railcar, Lessee shall make such payment within 45 days following the date of such event, whether or not the Lessor has made demand therefore prior to such payment date. In any event, the amount payable by the Lessee as the result of such loss, theft or destruction, will be sufficient to pay in full the proportional share of the indebtedness owing to the Secured Party in respect to the Railcars experiencing such loss. All money received by the Secured Party due to the occurrence of an event of loss shall be ratably applied to the remaining installments of the Loan.

**TENTH:** Financial Information. So long as the Secured Party holds a security interest in the Lease, the Lessee

shall furnish to the Secured Party the following information at the times specified:

Lessee shall furnish to Secured Party (i) as soon as available, but in any event within 90 days after the end of each fiscal year of Lessee, a copy of its consolidated statement of income and retained earnings for such year and consolidated balance sheet and changes in shareholder's equity and cash flows, as at the end of each such year, in each case setting forth in comparative form the corresponding figures for the preceding fiscal year, all in reasonable detail and certified by independent public accountants, (ii) as soon as available and in any event not later than forty-five (45) days after the end of each fiscal quarter of the Lessee, a copy of its consolidated statement of income and retained earnings, balance sheet, changes in shareholder's equity and cash flows as at the end of such quarter, (iii) on or before April 1 in each year commencing with the year 1993, an accurate statement, as of the preceding fiscal year (a) showing the amount, description and car numbers of the Railcars then leased under the Lease, the amount, description and car numbers of all Railcars that may have suffered a casualty occurrence during the preceding fiscal year (or since the date of the Lease, in the case of the first such statement); and such other information regarding the condition and state of repair of the Railcars as the Secured Party may reasonably request, and (b) stating that, in the case of all Railcars repainted during the

period covered by such statement, the markings required by Section 14 of the Lease shall have been preserved or replaced; (iv) copies of any approvals by or documents filed with the Interstate Commerce Commission or any other government agency or department in connection with the subleasing of the Railcars; and (v) such other information relating to the Railcars or the financial condition of the Lessee as the Secured Party shall reasonably request.

**ELEVENTH:** 17. Default. Notwithstanding the amount due from the Lessee upon default as determined under Section 17(a) of the Lease, in no event shall the amount due be less than, and the Lessee hereby agrees to pay, the amount necessary to repay in full the indebtedness then owing to the Secured Party under the Notes and the Security Agreement, including principal, accrued interest, and collection expenses as provided under the terms of the Notes and the Security Agreement. In no event shall the Secured Party be required to resort to the sale or release of the Railcars or to any other collateral for the Loan as a condition to the obligation of the Lessee upon default to pay to the Secured Party for the Lessor's account sufficient funds to repay the Loan in full.

**TWELFTH:** 18. Sublease and Assignment. CSG hereby assigns, transfers and disposes of all of its right, title and

interest as Lessor under the Lease to Diversified Lease Funding, Inc.

**THIRTEENTH:** 25. Capital Service Group's Agency Role. Section 25 is deleted from the Lease.

**FOURTEENTH:** 26. COUNTERPARTS. The Lease may be executed by the parties in counterparts; however, a single counterpart will be identified as the "Secured Party Original", which shall be delivered to and retained by the Secured Party. No transfer of any interest in the Lease or the rents due or to become due thereunder, shall be effective without delivery to the assignee of the counterpart identified as the "Secured Party Original". Each counterpart of the Lease shall bear the notation of such restriction.

**FIFTEENTH:** Additional Defaults. As further events of default under Section 17 of the Lease, at the option of the Secured Party, the Secured Party may declare the Lessee to be in default under the Lease upon the happening of any of the following:

(a) Lessee shall fail to pay any installment of basic rent within twenty (20) days after the due date for such payment; or shall fail to pay any other amounts due under the Lease within twenty (20) days following receipt of an invoice or written demand therefore;

(b) The Lessee shall fail to perform any covenant, condition or agreement contained in this Consent;

(c) The Lessee shall fail to pay or to otherwise discharge any personal property tax, or a lien in respect to such tax, on the Railcars following the failure of the Lessor to pay or discharge such tax in accordance with the terms of the Service Agreement;

(d) Any change, whether singly or in the aggregate, in the holders of a majority of the voting shares of capital stock of the Lessee.

WITNESS, the due execution hereof, with the intent to  
be legally bound.

CAPITAL SERVICES GROUP, INC.

By

Title

DIVERSIFIED LEASE FUNDING, INC.

By

Title

THE CARBIDE/GRAPHITE GROUP, INC.

By

Title

PNC LEASING CORP

By

Title

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FILE # 6805-04173

WITNESS, the due execution hereof, with the intent to  
be legally bound.

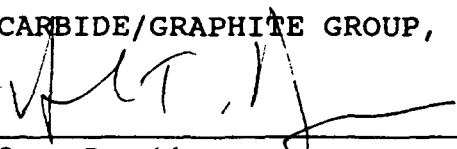
CAPITAL SERVICES GROUP, INC.

By \_\_\_\_\_  
Title \_\_\_\_\_

DIVERSIFIED LEASE FUNDING, INC.

By \_\_\_\_\_  
Title \_\_\_\_\_

THE CARBIDE/GRAPHITE GROUP, INC.

By  \_\_\_\_\_  
Title President \_\_\_\_\_

PNC LEASING CORP

By \_\_\_\_\_  
Title \_\_\_\_\_

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FILE # 6805-04173

ACKNOWLEDGEMENT

State of Colorado  
COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF ALLEGHENY )

SS:

Arapahoe

On this 12<sup>th</sup> day of NOVEMBER, 1992, before  
me personally appeared KENNETH H. GOODWIN to me personally  
known, whom, being by me duly sworn, says that he is the  
PRESIDENT of Capital Services Group, Inc., and  
that said instrument was signed on behalf of said corporation by  
authority of a resolution of its Board of Directors, and said  
KENNETH H. GOODWIN acknowledged to me that said  
corporation executed the same.

MY COMMISSION EXPIRES 1/14/93

Robin E. Thomas  
Notary Public

77360



ACKNOWLEDGEMENT

State of Colorado  
~~COMMONWEALTH OF PENNSYLVANIA~~ )  
COUNTY OF ALLEGHENY ) SS:  
Arapahoe

On this 12 day of November, 1992, before  
me personally appeared James A. Ericson to me personally  
known, whom, being by me duly sworn, says that he is the  
President of Diversified Lease Funding, Inc. and  
that said instrument was signed on behalf of said corporation by  
authority of a resolution of its Board of Directors, and said  
James A. Ericson acknowledged to me that said  
corporation executed the same.

MY COMMISSION EXPIRES 1/14/93

Robin E. Thomas  
Notary Public

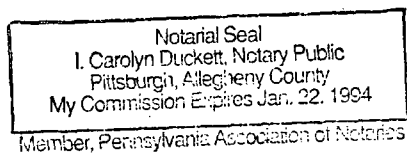
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ACKNOWLEDGEMENT

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS:  
COUNTY OF ALLEGHENY )

On this 10th day of November, 1992, before  
me personally appeared Nicholas T. Kaiser to me personally  
known, whom, being by me duly sworn, says that he is the  
President of The Carbide/Graphite Group, Inc.,  
and that said instrument was signed on behalf of said corporation  
by authority of a resolution of its Board of Directors, and said  
Nicholas T. Kaiser acknowledged to me that said  
corporation executed the same.

I. Carolyn Duckett  
Notary Public



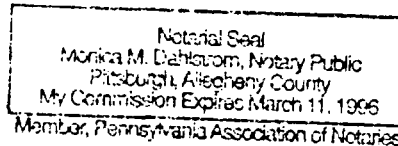
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ACKNOWLEDGEMENT

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS:  
COUNTY OF ALLEGHENY )

On this 19th day of NOVEMBER, 1992, before  
me personally appeared KAREN A. KIRSCH to me personally  
known, whom, being by me duly sworn, says that he is the  
VICE PRESIDENT of PNC Leasing Corp, and that said  
instrument was signed on behalf of said corporation by authority  
of a resolution of its Board of Directors, and said  
KAREN A. KIRSCH acknowledged to me that said  
corporation executed the same.

Monica M. Dahlstrom  
Notary Public



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